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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR    | ATTORNEY DOCKET NO.       | CONFIRMATION NO. |
|---|-------------|-------------------------|---------------------------|------------------|
| 10/774,523  | 02/10/2004  | Salim Mahinuddin Shaikh | 069715-0011               | 1094             |
| 31824   | 7590        | 05/04/2007              | EXAMINER                  |                  |
| MCDERMOTT WILL & EMERY LLP<br>18191 VON KARMAN AVE.<br>SUITE 500<br>IRVINE, CA 92612-7108 |             |                         | BARFIELD, ANTHONY DERRELL |                  |
| ART UNIT  |             | PAPER NUMBER            |                           |                  |
| 3636  |             |                         |                           |                  |
| MAIL DATE   |             | DELIVERY MODE           |                           |                  |
| 05/04/2007  |             | PAPER                   |                           |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                     |                          |
|------------------------------|---------------------|--------------------------|
| <b>Office Action Summary</b> | Application No.     | Applicant(s)             |
|                              | 10/774,523          | SHAIKH, SALIM MAHINUDDIN |
|                              | Examiner            | Art Unit                 |
|                              | Anthony D. Barfield | 3636                     |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 07 February 2007.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-30 is/are pending in the application.  
 4a) Of the above claim(s) 23-30 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-22 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
     Paper No(s)/Mail Date 2/10/04.

4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Group I in the reply filed on 2/7/07 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 23-30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 2/7/07.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase, "said attaching medium" lacks proper antecedent basis in claim 1.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-2,8,15,21 are rejected under 35 U.S.C. 102(b) as being anticipated by Takamatsu. Takamatsu shows a multi-sectional novelty device seat cushion, comprising: a plurality of seat cushion sections (11,19,23), including at least a first seat cushion section and a second seat cushion section; and an attaching mechanism comprising a zipper (21) along a respective non-linear first border, of a first (23) and second (19) seat cushion section, wherein the first border and the second border tessellate and the attaching medium (21) is affixed to the first seat cushion section at the first border. Takamatsu shows that the border has a zigzag pattern and the seat cushion has a storage compartment (17).

Claims 1-2,8-10,13,16,18,19 are rejected under 35 U.S.C. 102(b) as being anticipated by Glydon. Glydon shows a multi-sectional novelty device seat cushion, comprising: a plurality of seat cushion sections (12), including at least a first seat cushion section and a second seat cushion section; and an attaching mechanism (interlocking foam which acts as an adhesive), wherein the first seat cushion section includes a non-linear first border, wherein the second seat cushion section includes a non-linear second border, wherein the first border and the second border tessellate (see Fig. 3), wherein the attaching medium (20,22) is affixed to the first seat cushion section at the first border. Glydon shows that the border has a zigzag pattern and or a curved pattern based on the rounded edges of the dovetails.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3-4,6,7,17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glydon in view of Merritt. Glydon shows all of the teachings except the use of a handle or ergonomic hand grip and a circular cushion. Merritt shows the use conventional use of a handle (16) on a circular seat cushion (10). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the seat cushion of Glydon with the teachings, of Merritt in order to allow a user better convenience to transport the seat cushion as well a user to form more curved structures.

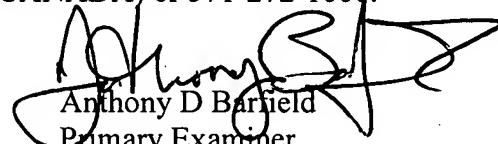
8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glydon in view of Marrero. Glydon shows all of the teachings except the use of a carrying strap. Marrero shows the use conventional use of a carrying strap (16) on a seat cushion (10). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the seat cushion of Glydon with the strap, of Marrero in order to allow a user to transport the seat cushion easily.

9. Claims 11,12,14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glydon in view of Oren et al. Glydon shows all of the teachings except the use of a hook and loop fastener as an attaching mechanism nor a fabric tie or snap. Oren et al. shows the use conventional use of hook and loop fasteners (22,80) disposed on a fabric tie as an attaching mechanism or a snap (see col. 4 line 17) on a seat cushion (10). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the seat cushion of Glydon with the fasteners as taught by, Oren in order to insure that the cushions do not come apart during use by a user.

Claim 20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glydon. Glydon shows all of the teachings except the cushion having a size of 14 inches by 14 inches and formed from polyurethane foam. It would have been an obvious matter of design choice to modify the cushion to measure 14 inches by 14 inches since it has been held that a mere change in size is within the scope of ordinary skill in the art. *In re Rose 1963*. Furthermore it would have been an obvious matter of design choice to modify the cushion from polyurethane foam since applicant has not disclosed that a polyurethane foam cushion solves any stated problem and it appears that the polyethylene foam cushion of Glydon would perform equally well.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D. Barfield whose telephone number is 571-272-6852. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Anthony D Barfield  
Primary Examiner  
Art Unit 3636

adb  
April 30, 2006